

Appendix F

Subrecipient and Vendor Distinctions

The applicability of the WtW regulations and the OMB circulars is limited to recipients and subrecipients funded by the WtW program; thus the distinction between subrecipients and vendors becomes critical to the program. Payments for goods or services received by a vendor are not considered to be Federal awards. To aid grantees and subgrantees in making the proper distinctions, the following guidance is provided. The descriptions have been drawn from 29 CFR 99.210:

SUBRECIPIENTS

A subrecipient is a legal entity to which a subaward is made and which is accountable to the recipient for the use of the funds provided. Characteristics of a subrecipient are when the organization receiving a Federal award performs the following activities:

- Determines eligibility for the program,
- Has its performance measured against the objectives of the Federal program,
- Has responsibility for programmatic decision making,
- Has responsibility for adherence to applicable program compliance requirements (for example, the regulations), and
- Uses the Federal funds to carry out a program of the organization as opposed to providing goods or services for a program.

VENDORS

A vendor is a dealer, distributor, merchant, or other seller providing goods or services that are required for the conduct of a Federal program. Characteristics of a vendor are when the payment made for goods and services is to an organization that:

- Provides the goods and services within normal business operations
- Provides similar goods or services to many different purchasers
- Operates in a competitive environment
- Provides goods or services that are ancillary to the operation of the Federal program
- Is not subject to the Federal compliance requirements of the program.

In making these determinations, States, competitive grantees, local area grantees, and other subgrantees should take into account all of the characteristics related to the type of provider. Under no circumstances should a designation of vendor be made for providers that have a financial or performance requirement related to eligibility or selection of participants. The designations of subrecipient and vendor relate to type of product or service provided, and not to the type of agreement document used or whether that agreement is called a contract or a subgrant.

The following review list may be of assistance in distinguishing subrecipients from vendors. When deciding whether a vendor or subrecipient relationship exists, remember that it is the relationship that matters, not the label on the award document, be it grant, contract, subgrant, or subcontract. No one factor should be taken in isolation; all of the applicable criteria for each decision should be reviewed. The following guidance is based on the definitions found in 29 CFR 99.210.

Subrecipient and Vendor Distinctions

Factor	Vendor	Subrecipient
Activity	Sell deliverables	Provide services
Assistance arrangement	Buyer-Seller	Financial assistance to operate a program
Closeout package	Final Invoice	Comprehensive
Control	Control is outcome focused	Control is on process
Development Costs	Absorbed	Controlled
Extent of Flexibility	Bound to adhere to specific contract terms	Latitude to make decision within terms of agreement
Federal Rules	N/A	Compliance
On-the-Job Training	Subgrantee developed	Brokered
Payment Basis	Is paid for specific product	Is paid for services
Product	Specific outcomes	Pass down program
Performance Measured	Against the specific requirements of contract	Against the broad objectives of the financial assistance award
Product Development	Develops Product and delivers from inventory	Controls development
Public Policy	Contract specific	Standard statement of assurances
Purpose of the Award	To provide specific goods or services	To carry out a program goal
Receipt of Funds	Number of items sold	Costs incurred
Risk	Risk to vendor	Share risk with awarding agency
Special Conditions	General	General and special conditions
Type of Training Referral	Slotting on an individual Referral basis or voucher	Filling a class-sized training program
Type of Service Provided	Goods, administrative services	Program services
Type of Market	For sale to the general public; existing product tailored to the WtW solicitation	Customized for WtW purposes
Type of Product	Provide specific product	Design a program to meet a broader goal